



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

McCABE, WEISBERG & CONWAY, P.C.

**By: Alexandra T. Garcia, Esquire (Atty. I.D.#
ATG4688)**

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Attorneys for Mortgagee: Bayview Loan Servicing, LLC
as servicer for M&T Bank

In re:

Frank M. McClain, Jr.
Amalia E. McClain

Case No.: 12-15408-DHS

Chapter: 13

Judge: Donald H. Steckroth

**CONSENT ORDER RESOLVING DEBTOR'S MOTION FOR AN ORDER TO
CRAMDOWN THE LIEN OF M&T BANK**

The relief set forth on the following pages, numbered two (2) through four (4) is hereby **ORDERED**

DATED: 01/09/2013



Honorable Donald H. Steckroth
United States Bankruptcy Judge

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Debtor: Frank M. McClain, Jr. & Amalia E. McClain

Case No: 12-15408-DHS

Caption of Order: CONSENT ORDER RESOLVING DEBTOR'S MOTION FOR AN ORDER TO CRAMDOW THE LIEN OF M&T BANK

THIS MATTER having been brought before the Court by Bruce W. Radowitz, attorneys for Debtors, Frank M. McClain, Jr. and Amalia E. McClain, upon the filing of a Motion for an order to Cramdown the Lien of M&T Bank, and Bayview Loan Servicing, LLC as servicer for M&T Bank, by and through its attorneys, McCabe, Weisberg & Conway, P.C. having filed an Objection to the Motion for an order to Cramdown the Lien of M&T Bank, and the parties having subsequently resolved the differences; and the Court noting the consent of the parties to the form, substance and entry of the within Order, and for cause shown, it is

ORDERED as follows:

1. The mortgage held by M&T Bank on the property located at 271 Westfield Avenue, Elizabeth, NJ 07202, recorded in the Union County Clerk's Office, as Instrument Number 418167 will continue to be paid per the original terms of the Note and Mortgage. All terms of the Note and Mortgage shall remain in full force and effect. Debtors agree to comply with all covenants, agreements, and requirements of the Mortgage and Note, including without limitation, Debtors' covenants and agreements to make all payments of taxes, insurance premiums, assessments, escrow items, impounds, and all other payments that debtors are obligated to make under the terms of the Note and Mortgage.
2. Status of post-petition arrearages:
 - ☒ The Debtors are overdue for 9 months, from April 1, 2012 to December 1, 2012.
 - ☒ The Debtors are overdue for 7 payments at \$2,326.36 per month.

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Debtor: Frank M. McClain, Jr. & Amalia E. McClain

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TO CRAMDOWN THE LIEN OF M&T BANK

☒ The Debtors are overdue for 2 payments at \$2,243.62 per month.

Total Arrearages Due: \$ 20,771.76.

3. Debtors must cure all post-petition arrearages, as follows:

☒ The amount of \$ 20,771.76 shall be capitalized in the debtor's Chapter 13 plan. The mortgagee's allowed secured claim (Claim No. 13-1) shall be amended to include the capitalized post petition payments listed in this Order to the Proof of Claim as filed. As a result of such capitalization, the Standing Chapter 13 Trustee shall adjust his/her records accordingly and make revised disbursements.

☒ Beginning on January 1, 2013, regular monthly mortgage payment shall continue to be made in the amount of \$2,243.62.

4. Payments to M&T Bank shall be made to the following address(es):

☒ Regular monthly payment: M&T Bank
PO Box 840
Buffalo, NY 14240-0840

5. In the event of Default:

☒ If during the life of the bankruptcy, the Debtors fail to make any regular monthly payment within thirty (30) days of the date the payments are due, then the Secured Creditor may obtain an Order Vacating the Automatic Stay as to the Collateral by filing, with the Bankruptcy Court, a Certification specifying the Debtors' failure to comply with this Order. At the time the Certification is filed with the court, a copy of the Certification shall be sent to the Debtors and the Debtors' attorney.

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6. In the event the Debtor converts his/her case to a Chapter 11, the terms of the Order shall remain in full force and effect. In the event that the Debtor converts his/her case to a Chapter 7, Debtor shall cure all pre-petition and post-petition arrears within ten (10) days of conversion. Failure to cure the arrears shall constitute an event of default under this Order and Secured Creditor may certify default as set forth in paragraph 5 of this order
7. Debtors and Bayview Loan Servicing, LLC as servicer for M&T Bank by and through their counsel, consent to the entry of the within order.
8. This Order shall be incorporated in and become part of any Order confirming Plan in the Debtors' Chapter 13 bankruptcy.
9. Facsimile signature of Debtors' Counsel shall be admissible where Mortgagee's attorney's signature appears in the original.

The undersigned hereby consent to the form, content and entry of the within Order:



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Counsel for Mortgagee